

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF VIRGINIA

Alexandria Division

_____	)	
XO COMMUNICATIONS, INC.,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Civil Action No. 05-1188
	)	
PREMIER MESSAGING, L.P.,	)	
	)	
Defendant.	)	
_____	)	

**ORDER**

This matter comes before the Court on Plaintiff's Local Rule 7 Motion to Strike Notice of Removal and Motion to Remand.

The Court finds that Plaintiff filed the original matter in state court on July 21, 2005 which was served on Defendant on August 29, 2005. Defendant filed a Notice of Removal on October 13, 2005, approximately forty days after being served with the complaint in the state matter. According to the removal statutes, "notice of removal of a civil action or proceeding shall be filed within thirty days after the receipt by the defendant." 28 U.S.C. § 1446 (2000). Thus, Defendant attempted to remove this case improperly. Plaintiff's Motion to Strike is moot in light of Defendant's failed attempt to remove. It is hereby

ORDERED that Plaintiffs' Motion to Remand is GRANTED and

Plaintiffs' Local Rule 7 Motion to Strike Notice of Removal is  
DENIED and this matter is REMANDED to the Circuit Court of the  
County of Fairfax, Virginia.

/s/

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CLAUDE M. HILTON  
UNITED STATES DISTRICT JUDGE

Alexandria, Virginia  
November 7, 2005